

REMARKS

This is a full and timely response to the non-final Official Action mailed **September 4, 2009** (the “Office Action” or “Action”). Reconsideration of the application in light of the following remarks is respectfully requested.

Claim Status:

By the preceding amendment, claim 6 has been amended. The amendment to claim 6 does not, and is not intended to limit or otherwise change the scope of claim 6 in any way. The present paper proposes no further changes to the claims. Thus, claims 1-10 are currently pending for further action.

35 U.S.C. § 112, second paragraph:

In the recent Office Action, claim 3 was rejected under 35 U.S.C. § 112, second paragraph. This claim has been carefully reviewed in light of the Examiner's comments. Specifically, the Examiner took issue with the language “a primary layer comprising basic configuration layout data” recited in claim 3. (Action, p. 2). According to the Action, the term “basic configuration” is relative and renders the claim indefinite in light of the Examiner’s position that the term “is not defined by the claim,” “the specification does not provide a standard for ascertaining the requisite degree,” and “one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.” (*Id.*). Applicant respectfully disagrees.

As a preliminary note, Applicant’s specification provides a solid antecedent basis for the “primary layer comprising basic configuration layout data.” (Applicant’s Specification, pp. 5, 9-

11). With particular regard to the “basic configuration layout data,” Applicant’s specification expressly states the following about the primary layer:

Further, the *basic system layout is stored in a configuration section 54, which stores the so-called "static system parameters" for all processors connected to the ASIC.* Those autonomic state parameters comprise any static, ie, "normal case" boot or re-boot information for the embedded system and are stored in a set of registers 84.
(Applicant’s Specification, ¶ 0042) (emphasis added).

In light of the above and other teachings in Applicant’s specification, it will be perfectly clear to anyone having ordinary skill in the art that the “basic configuration layout data” recited in claim 3 refers to basic system layout of an embedded system, specifically including the “static system parameters for all processors connected to the ASIC.” (*Id.*). Thus, the specification provides a standard for ascertaining the scope of the term “basic configuration layout data” such that one of ordinary skill in the art would be reasonably apprised of the scope of the invention. Nothing more is required by 35 U.S.C. § 112, second paragraph. M.P.E.P. § 2173.02. As such, claim 3 satisfies the requirements of § 112, second paragraph. Therefore, the outstanding rejection of claim 3 based on § 112, second paragraph, should be reconsidered and withdrawn.

Prior Art:

Claims 1-10 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Application Publication No. 2004/0205386 by Staiger (“Staiger”). For at least the following reasons, this rejection is respectfully traversed.

Applicant first wishes to point out that the present application claims priority based on European Patent Office Application No. 02102830.3, which was filed on December 19, 2002. (Notice of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495, April 14, 2006;

Transmittal Letter to the United States Designated/Elected Office Concerning a Submission under 35 U.S.C. 371, June 15, 2005). By contrast, the Staiger reference claims priority based on European Patent Office Application No. 03100780.0, which was filed on March 26, 2003. (Staiger, title page). Thus, the earliest priority date available to the Staiger reference, March 26, 2003, is still after the priority date of the present application, December 19, 2002.

In light of the above facts, it is impossible for the Staiger reference to qualify as prior art under 35 U.S.C. § 102(b) against the present application. Particularly, § 102(b) requires that an allegedly anticipating reference be “a printed publication in this or a foreign country or in public use or on sale in this country, *more than one year prior to the date of application for patent in the United States.*” (Emphasis added). This condition cannot be met because the present application was filed more than three months prior to the Staiger reference, and the foreign priority date of the present application is “the date of application for patent in the United States” under § 102(b). 35 U.S.C. § 119(a); 37 C.F.R. § 1.55.

Due to the fact that the Staiger reference is not prior art against the present application, 35 U.S.C. § 102(b) provides absolutely no basis for the present rejection of claims 1-10. Consequently, the rejection of claims 1-10 based on Staiger should be reconsidered and withdrawn.

Conclusion:

In view of the preceding arguments, all claims are believed to be in condition for allowance over the prior art of record. Therefore, this response is believed to be a complete response to the Office Action. However, Applicant reserves the right to set forth further arguments in future papers supporting the patentability of any of the claims, including the

separate patentability of the dependent claims not explicitly addressed herein. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed.

The absence of a reply to a specific rejection, issue or comment in the Office Action does not signify agreement with or concession of that rejection, issue or comment. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment. Further, for any instances in which the Examiner took Official Notice in the Office Action, Applicants expressly do not acquiesce to the taking of Official Notice, and respectfully request that the Examiner provide an affidavit to support the Official Notice taken in the next Office Action, as required by 37 CFR 1.104(d)(2) and MPEP § 2144.03.

If the Examiner has any comments or suggestions which could place this application in better form, the Examiner is requested to telephone the undersigned attorney at the number listed below.

Respectfully submitted,

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